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HOUSE BILL 799

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Gail Chasey

AN ACT

RELATING TO TORTS; AMENDING THE TORT CLAIMS ACT; CLARIFYING
PERMISSIBLE DAMAGE AWARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 41-4-1 NMSA 1978 (being Laws 1976,
Chapter 58, Section 1, as amended) is amended to read:

"41-4-1. SHORT TITLE.--~~[Sections 41-4-1 through 41-4-27]~~
Chapter 41, Article 4 NMSA 1978 may be cited as the "Tort
Claims Act"."

Section 2. Section 41-4-12 NMSA 1978 (being Laws 1976,
Chapter 58, Section 12, as amended) is amended to read:

"41-4-12. LIABILITY--~~[LAW ENFORCEMENT OFFICERS]~~ PUBLIC
EMPLOYEES.--The immunity granted pursuant to Subsection A of
Section ~~[5-14-4 NMSA 1953]~~ 41-4-4 NMSA 1978 does not apply to
liability for personal injury, bodily injury, wrongful death or
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1 property damage resulting from assault, battery, false
2 imprisonment, false arrest, malicious prosecution, abuse of
3 process, libel, slander, defamation of character, violation of
4 property rights or deprivation of any rights, privileges or
5 immunities secured by the constitution and laws of the United
6 States or New Mexico when caused by [~~law enforcement officers~~]
7 public employees while acting within the scope of their
8 duties."

9 Section 3. Section 41-4-19 NMSA 1978 (being Laws 1976,
10 Chapter 58, Section 17, as amended) is amended to read:

11 "41-4-19. MAXIMUM LIABILITY.--

12 A. Unless limited by Subsection B of this section,
13 in any action for damages against a governmental entity or a
14 public employee while acting within the scope of the employee's
15 duties as provided in the Tort Claims Act, the liability shall
16 not exceed:

17 (1) the sum of two hundred thousand dollars
18 (\$200,000) for each legally described real property for damage
19 to or destruction of that legally described real property
20 arising out of a single occurrence;

21 (2) the sum of three hundred thousand dollars
22 (\$300,000) for all past and future medical and medically
23 related expenses arising out of a single occurrence; and

24 (3) the sum of four hundred thousand dollars
25 (\$400,000) to any person for any number of claims arising out

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1 of a single occurrence for all damages other than real property
2 damage and medical and medically related expenses as permitted
3 under the Tort Claims Act.

4 B. The total liability for all claims pursuant to
5 Paragraphs (1) and (3) of Subsection A of this section that
6 arise out of a single occurrence shall not exceed seven hundred
7 fifty thousand dollars (\$750,000).

8 C. Interest shall be allowed on judgments against a
9 governmental entity or public employee for a tort for which
10 immunity has been waived under the Tort Claims Act at a rate
11 equal to two percentage points above the prime rate as
12 published in the *Wall Street Journal* on the date of the entry
13 of the judgment. Interest shall be computed daily from the
14 date of the entry of the judgment until the date of payment.

15 D. Except in cases brought pursuant to the
16 constitution of the United States or pursuant to the
17 constitution of New Mexico, no judgment against a governmental
18 entity or public employee for any tort for which immunity has
19 been waived under the Tort Claims Act shall include an award
20 for exemplary or punitive damages or for interest prior to
21 judgment. In cases brought pursuant to the constitution of the
22 United States or pursuant to the constitution of New Mexico, a
23 prevailing plaintiff may be awarded attorney fees, expenses,
24 costs, exemplary or punitive damages and prejudgment interest,
25 and the state shall be liable the same as a private person."

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